

TIMOTHY BURRELL
VERSUS
SOUTHERN MAGNOLIA
TRANSPORT, LLC, ET AL

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10TH JUDICIAL DISTRICT COURT
DOCKET NO. 92918 B
NATCHITOCHES PARISH, LOUISIANA

PETITION FOR DAMAGES

NOW INTO COURT, through undersigned counsel comes petitioner, **TIMOTHY BURRELL**, who respectfully represents the following petition for damages, to wit:

1.

Made defendants herein are:

- A. **SOUTHERN MAGNOLIA TRANSPORT, LLC**, believed to be the owner of the 2014 Westernstar tractor and trailer that it was pulling (hereinafter referred to as "18 wheeler") involved in the subject collision, and/or the employer of the driver of said 18 wheeler, defendant, **SLADE H. SMITH**, at the time of the collision in question, and, as such, is liable jointly and severally with one or more defendants for all damages which may be cast in favor of petitioner, plus costs and interest from the date of judicial demand;
- B. **NATIONAL CASUALTY COMPANY**, believed to be a foreign insurance company authorized to do and doing business in the State of Louisiana at all times relevant herein that, based upon information and belief, maintained one or more policies of primary and/or excess liability insurance insuring **SOUTHERN MAGNOLIA TRANSPORT, LLC** and/or **SLADE H. SMITH** and/or the 18 wheeler at the time of the collision in question, against liability in the premises and, as such, is liable jointly and severally with one or more defendants for all damages which may be cast in favor of petitioner, plus costs and interest from the date of judicial demand;
- C. **SLADE H. SMITH**, believed to be a person of the full age of majority at all relevant times herein, who was the owner of and/or driver of the 18 wheeler that was involved in the collision at issue herein and, as such, is liable jointly and severally with one or more defendants for all damages which may be cast in favor of petitioner, plus costs and interest from the date of judicial demand; and
- D. **GEICO CASUALTY COMPANY**, believed to be a foreign insurer authorized to do and doing business in the State of Louisiana, who at all times relevant herein provided one or more policies of uninsured/under insured motorist insurance coverage to **TIMOTHY BURRELL** and/or the vehicle he was operating on the date of the collision in question and, as such, is liable jointly and severally with one or more defendants for all for all damages sought by petitioner herein.

2.

The defendants, **SOUTHERN MAGNOLIA TRANSPORT, LLC**, **NATIONAL CASUALTY COMPANY**, **SLADE H. SMITH**, and **GEICO CASUALTY COMPANY**, are liable, jointly and severally to the petitioner for harms and losses which he sustained, together with legal interest from the date of judicial demand and costs of these proceedings for the following reasons, to wit:

EXHIBIT 1

3.

On or about November 11, 2020, petitioner, **TIMOTHY BURRELL**, was operating a 2003 Pontiac Grand Am, traveling southbound in the outside lane of I-49 in Natchitoches Parish, Louisiana. At approximately the same time, **SLADE H. SMITH** was operating the 18 wheeler also traveling south in the outside lane of I-49 in Natchitoches Parish, Louisiana, directly behind **MR. BURRELL's** vehicle, when suddenly and without warning the 18 wheeler struck the rear of **MR. BURRELL's** vehicle, causing him to lose control and cross into the median where the vehicle rolled over.

4.

At all times pertinent hereto, petitioner, **TIMOTHY BURRELL**, drove his vehicle safely and with due prudence. In no way is petitioner, **TIMOTHY BURRELL**, at fault and/or responsible for contributing to or causing the collision.

5.

The collision and the below described injuries and damages were caused solely by the negligence and fault of defendants, **SOUTHERN MAGNOLIA TRANSPORT, LLC** and **SLADE H. SMITH**, in the following, non-exclusive, particulars, to wit:

- a. In operating his vehicle in violation of the traffic laws of Louisiana;
- b. Failing to maintain control of his vehicle;
- c. Failing to maintain a proper lookout;
- d. Traveling at an unreasonably dangerous speed for the traffic and/or roadway conditions as they existed at the time of the collision;
- e. Failing to do what should have been done to avoid the collision set forth herein;
- f. Careless and/or negligent operation;
- g. Violating any and all applicable laws, rules, regulations, and/or standards;
- h. Negligent hiring, training, supervision and/or entrustment;
- i. Petitioner invokes all legal presumptions including but not limited to the presumption of liability of a motorist whose vehicle strikes another vehicle from the rear; and
- j. All other acts of negligence and/or fault that will be shown at the trial of this matter.

6.

Upon information and belief, at all times pertinent hereto, defendant, **SLADE H. SMITH**, was working as an employee of defendant, **SOUTHERN MAGNOLIA TRANSPORT, LLC**, and was driving the 18 wheeler with the permission of his employer.

7.

SOUTHERN MAGNOLIA TRANSPORT, LLC is vicariously liable for the actions of **SLADE H. SMITH** under the doctrine of *Respondeat Superior* and/or Louisiana law.

8.

Directly and solely as a result of the collision in question, **TIMOTHY BURRELL** suffered injuries and, as a result, is entitled to recover all available damages including, but not limited to:

- a. Physical pain and suffering – past, present, and future;
- b. Mental anguish and/or emotional distress – past, present, and future;
- c. Disability and/or impairment – past, present, and future;
- d. Lost Wages and/or loss of earning capacity - past, present, and future;
- e. Loss of enjoyment of life – past, present, and future;
- f. Medical expenses – past, present, and future; and
- g. Any and all other damages which will be established at the time of trial.

9.

Petitioner, **TIMOTHY BURRELL**, is therefore entitled to damages for the items set forth in such amounts as are reasonable in the premises.

10.

Petitioner is informed, believes and therefore alleges that at the time of the collision at issue the defendant, **NATIONAL CASUALTY COMPANY**, had issued a liability insurance policy to **SOUTHERN MAGNOLIA TRANSPORT, LLC** and/or **SLADE H. SMITH**, and under the laws of the State of Louisiana, said policy was in full force and effect at the time of the collision, and which insurance inures to the benefit of Petitioner under the provisions of the Louisiana Direct Action Statute, L.A. R.S. 22:1269.

11.

Petitioner further alleges on information and belief that under the terms of the said policy, **NATIONAL CASUALTY COMPANY** obligated itself to pay any and all damages caused to

Petitioner as a result of the negligence and/or fault of **SLADE H. SMITH** and/or **SOUTHERN MAGNOLIA TRANSPORT, LLC** in the operation of said 18 wheeler.

12.

Pursuant to the provisions of the Louisiana Code of Civil Procedure, Article 1423, *et sec.*, Petitioner is entitled to a certified copy of all insurance policies issued to and/or otherwise insuring **SLADE H. SMITH** and/or **SOUTHERN MAGNOLIA TRANSPORT, LLC** for the claims made by Petitioner herein. Petitioner requests a certified copy of any and all such policies of insurance within thirty (30) days of service of the petition upon them.

13.

At the time of the collision at issue, petitioner was covered by an insurance policy issued by defendant, **GEICO CASUALTY COMPANY**, which provided uninsured/underinsured motorist coverage with limits of \$15,000 per person.

14.

SOUTHERN MAGNOLIA TRANSPORT, LLC, NATIONAL CASUALTY COMPANY, SLADE H. SMITH, and GEICO CASUALTY COMPANY are therefore liable, jointly and severally unto the Petitioner for all damages sustained by Petitioner in said collision.

15.

Venue is proper in this judicial district pursuant to La. C.C.P. arts. 74 and 76.

WHEREFORE, PETITIONER PRAYS that defendants, **SOUTHERN MAGNOLIA TRANSPORT, LLC, NATIONAL CASUALTY COMPANY, SLADE H. SMITH, and GEICO CASUALTY COMPANY**, be served with a certified copy of this Petition for Damages, be duly cited to appear and answer this petition and that after due proceedings had and the lapse of all legal delays, that there be a judgment herein in favor of petitioner, **TIMOTHY BURRELL**, and against defendants, **SOUTHERN MAGNOLIA TRANSPORT, LLC, NATIONAL CASUALTY COMPANY, SLADE H. SMITH, and GEICO CASUALTY COMPANY**, jointly and severally for damages in an amount which is reasonable in the premises, together with legal interest thereon from date of judicial demand until paid and for all costs of these proceedings.

PETITIONER FURTHER PRAYS for any and all additional legal and/or equitable relief which this Honorable Court may deem necessary and proper.

Respectfully Submitted,



BRIAN C. COLOMB (Bar No. 25625)

2505 Verot School Road
Lafayette, LA 70508
Telephone: 337-541-6584
Fax: 337-704-2805
brian@getgordon.com

**ATTORNEYS FOR PETITIONER,
TIMOTHY BURRELL**

PLEASE SERVE:

NATIONAL CASUALTY COMPANY

Through its registered agent for service:
Louisiana Secretary of State
8585 Archives Avenue
Baton Rouge, LA 70809

THROUGH THE LONG ARM STATUTE:

SOUTHERN MAGNOLIA TRANSPORT, LLC,

Through its registered agent for service:
Clint Rowell
259 Clear Creek Road
Lumberton, MS 39455

THROUGH THE LONG ARM STATUTE:

SLADE H. SMITH

1528 Dupont Harts Chapel Road
Poplarville, MS 39470-3210

GEICO CASUALTY COMPANY

Through its registered agent for service:
Louisiana Secretary of State
8585 Archives Avenue
Baton Rouge, LA 70809